

Diane G. Reed  
Chapter 7 Trustee  
604 Water Street  
Waxahachie, TX 75165  
(972) 938-7334  
(972) 923-0430 (fax)

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

In re: §  
§  
§  
ROBERT L. SMITH and § CASE NO. 05-94549-DML-7  
EARNEST SMITH, § (Chapter 7)  
§  
§  
Debtors. § No Hearing Requested

**APPLICATION TO EMPLOY REED & ELMQUIST, P.C.  
AS ATTORNEYS FOR CHAPTER 7 TRUSTEE**

**TO THE HONORABLE D. MICHAEL LYNN, U.S. BANKRUPTCY JUDGE:**

DIANE G. REED, Chapter 7 trustee ("Applicant"), files this her Application to Employ Reed & Elmquist, P.C. ("R&E") as Attorneys for the Chapter 7 Trustee, and in support thereof would respectfully show the Court as follows:

1. This Court has jurisdiction to hear this application under the provisions of 28 U.S.C. §§ 1334 and 157. This matter involves the administration of a bankruptcy estate and, thus, is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).

2. On October 14, 2005 (the "Petition Date"), the Debtors filed a voluntary petition for relief under Chapter 7 of the United States Bankruptcy Code, 11 U.S.C. § 101, *et seq.* (the "Bankruptcy Code"), initiating the above-referenced case with this Court. The Trustee was appointed the chapter 7 trustee, and she continues to serve in that capacity.

3. Pursuant to 11 U.S.C. § 327, the Applicant requests approval of this Court to employ R&E as her attorneys in this case. The Applicant has selected R&E because the firm is well qualified to provide the professional legal services required by the Applicant in this case. Specifically, David W. Elmquist, a shareholder of R&E, is personally familiar with this case and the estate's assets. He recently left the law firm of Winstead PC who was previously approved by this Court by order entered February 6, 2007 as special counsel to the Trustee on a contingent fee basis. Accordingly, Winstead will no longer be providing legal services as special counsel to the Trustee.

4. The services that R&E will provide the Applicant include the following:
  - (a) represent the Applicant in matters and transactions relating to the disposition of the assets of the bankruptcy estate;
  - (b) advise the Applicant with respect to legal matters arising from the Debtors' financial and business activities, and the disposition of the Debtors' assets;
  - (c) represent the Applicant in certain contested matters and adversary proceedings that may be filed in the Debtors' case;
  - (d) appear at proceedings in the case as deemed necessary or appropriate by the Applicant and R&E;
  - (e) pursue, at the request of Applicant, certain preference, avoidance, and other causes of action of the Debtors or the Debtors' estate; and
  - (f) perform such other legal services as may be necessary or appropriate and as requested by Applicant.

5. To the best of the Applicant's knowledge R&E has no connection with the Debtors' creditors or any other party in interest, or their respective attorneys or accountants other

than as set forth in the affidavit of David W. Elmquist ("Elmquist"), attached hereto as Exhibit A. Based on Elmquist's affidavit, the Applicant believes and represents that, to the best of her knowledge, R&E is a "disinterested person" as that term is defined in 11 U.S.C. §101(14).

6. Subject to the Court's approval, R&E will charge the Applicant for its legal services on an hourly basis in accordance with its ordinary and customary hourly rates as in effect on the date services are rendered. The current minimum hourly rates for the primary attorney and paralegal who will be performing substantially all of the services to the Applicant are listed below.

David W. Elmquist, Shareholder:	\$350.00
Linda Kaye Paquette, Paralegal:	\$140.00

7. In addition to compensation for professional services rendered, R&E shall seek reimbursement for reasonable and necessary expenses incurred in connection with these proceedings, including, but not limited to, filing fees, deposition and other transcript costs, Lexis, PACER and other electronic research, travel expenses, long distance and fax charges, messenger services, postage and reproduction costs.

8. The Applicant believes that the employment of R&E will be in the best interest of the estate and, accordingly, the Applicant requests that R&E be employed as counsel for the Applicant. The Applicant requests that R&E's employment be approved effective as of May 1, 2008.

WHEREFORE, the Applicant prays that this Court approve the employment of R&E on the terms set out herein, and for such other and further relief as the Applicant may be justly entitled.

Respectfully submitted,

/s/ Diane G. Reed

DIANE G. REED  
Chapter 7 Trustee  
604 Water Street  
Waxahachie, TX 75165  
(972) 938-7334  
(972) 923-0430 (fax)

Proposed Counsel to Trustee:

David W. Elmquist (SBT #06591300)  
**REED & ELMQUIST, P.C.**  
604 Water Street  
Waxahachie, TX 75165  
(972) 938-7334  
(972) 923-0430 (fax)  
E-mail: [delmquist@bcylawyers.com](mailto:delmquist@bcylawyers.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on May 19, 2008, a true and correct copy of the foregoing Application was served via U.S. first class mail, postage prepaid, on the persons listed on the attached Service List.

/s/ David W. Elmquist

David W. Elmquist

IRS Special Procedures  
MC 5029-Dal  
1100 Commerce, Room 9A20  
Dallas, TX 75242

U.S. Attorney  
1100 Commerce, 3rd Floor  
Dallas, TX 75242

U.S. Attorney General  
Department of Justice  
Washington, DC 20001

501 W. Tenth Street  
Fort Worth, TX 76102

Allied International  
2101 Peorir Ave  
Phoenix, AZ 85029

Applied Bank Card  
PO Box 10008  
Hunnington, VW

Bank First  
1509 West 41st Street  
Sioux Falls, SD 57105

Bombay Company  
PO Box 97141  
Gray, IN 37615

Calvary Portfolio Service  
4050 E. Cotton Center Blvd.  
Phoenix, AZ 85040

Capital One  
P.O. Box 85015  
Richmond, VA 23285-5015

Cavalry Portfolio Services,  
7 Skyline Drive, 3rd Fl  
Hawthorne, NY 10532

Chrysler Financial  
P O Box 201147  
Arlington, TX 76006

Citi Financial  
2208 Highway 121 Suite 100  
Bedford, TX 76021

CitiFinancial Auto  
PO Box 1472  
Minneapolis, MN 55440-1472

CitiFinancial Auto  
PO Box 1472  
Minneapolis, MN 55440-1472

Citibank (USA). N.A.  
DBA: ZALES  
PO Box 9025  
Des Moines, IA 50368

Comptroller of Public Accounts  
Revenue Accounting Division  
PO Box 13528  
Austin, TX 78711

Conseco  
P O Box 6152  
Rapid City, SD 57709-6152

Credigy Recievable  
3950 Jhons Creek court  
Suwanee, GA 30024

Credigy Services Corp.  
P.O. Box 2689  
Suwanee, GA 30024

Credit Systems Inc  
1277 Country Club  
Ft Worth, TX 76112

DaimlerChrysler Financial

Dillards  
PO Box 981430  
El Paso, TX 79998

Discover  
P.O. Box 15316  
Wilmington, DE 19850

Diversified International  
7101 McEwen RD STE 510  
Farmers Branch, TX 75244

ER Phisicains Arlington  
111 E. Center Street  
Lorena, TX 76555

FBCS  
841 E. Huntington Park Ave.  
Philadelphia, PA 19124

FOLEY'S  
PO BOX 66955  
St Louis, MO 63166

First Premier Bank  
601 S. Minnesota Ave.  
Sioux Falls, SD 57104

Foleys  
P O Box 1971  
Houston, TX 77251-1971

HFC  
P.O. Box 8633  
Elmhurst, IL 60126

HSBC  
1441 Schibing Place  
Salinas, CA 93901

HSBC-Room Store  
PO Box 703  
Wood Dale, IL 60191

Internal Revenue Service  
Special Procedures -  
PO Box 21126  
Philadelphia, PA 19114

LVNV Funding  
PO Box 10497  
Greenville, SC 29603

LVNV Funding LLC., its  
assignee of Resurgent Capital  
Resurgent Capital Services,  
Greenville, SC 29603-0587

Lane Bryant  
4590 E. Broad Street  
Columbus, OH 43213

NCO FIN-38  
P O Box 13564  
Philadelphia, PA 19101

OSI Collection Services, Inc.  
P.O. Box 551075  
Jacksonville, FL 32256

PREMIER BANKCARD/CHARTER  
P.O. BOX 2208  
Vacaville, CA 95696

Paramount Recovery Systems  
111 E. Center St.  
Lorena, TX 76655

Plaza Medical Center  
900 N. Pearl Suite 208  
Dallas, TX 75201

Plaza Medical Center  
PO Box 99400  
Louisville, KY 40269

Professional Bailsbond  
58043 Court St.  
Plaquemine, LA 70764

Providian  
PO Box 9180  
Pleasanton, CA 94566

Radiology Associates  
801 W. Road to Six Flags  
Arlington, TX 76012

Recovery Management Systems  
For GE Money Bank  
dba DILLARD'S, 25 S.E. 2nd  
Miami, FL 33131

Sprint  
PO Box 660092  
Dallas, TX 75266

Tarrant Emergency  
PO Box 41414  
Philadelphia, PA 19101

Texas Medical Resources, LLP  
P.O. Box 8549  
Fort Worth, TX 76124-0549

Triumph-Bank First  
P.O. Box 89810  
Sioux Falls, SD 75105

United Revenue Corp.  
204 Billings suite 120  
Arlington, TX 76010

World Financial Network  
Lane Bryant Retail  
c/o Weinstein & Riley, P.S.,

Zales  
PO Box 689183  
Des Moines, IA 50368

eCAST Settlement Corporation  
HSBC Bank Nevada NA / HSBC  
Services III, POB 35480  
Newark, NJ 07193-5480

David S. Kohm  
David S. Kohm & Associates  
1414 W. Randol Mill, Suite 118  
Arlington, TX 76012

Earnest Smith  
2408 Glencrest Drive  
Fort Worth, TX 76119

Robert L. Smith  
2408 Glencrest Drive  
Fort Worth, TX 76119

UST U.S. Trustee  
1100 Commerce Street  
Room 976  
Dallas, TX 75242-1496

Pamela Arnold Bassel  
Bassel & Wilcox, P.L.L.C.  
P.O. Box 11509  
Fort Worth, TX 76110-0509

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
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In re: §  
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ROBERT L. SMITH and § CASE NO. 05-94549-DML-7  
EARNEST SMITH, § (Chapter 7)  
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Debtors. §

**AFFIDAVIT OF DAVID W. ELMQUIST IN SUPPORT OF  
TRUSTEE'S APPLICATION TO EMPLOY ATTORNEYS**

STATE OF TEXAS §  
§  
COUNTY OF ELLIS §

BEFORE ME, the undersigned authority, on this day personally appeared DAVID W. ELMQUIST, who, after being duly sworn, upon his oath deposed and stated as follows:

1. My name is David W. Elmquist. I am more than twenty-one (21) years of age and am competent and authorized to make this Affidavit. I have personal knowledge of the facts set forth herein and they are true and correct.

2. I have been licensed to practice law in the State of Texas since 1978. I am admitted to practice law and am in good standing in all of the federal district courts in Texas and in the Fifth and Eleventh Circuits.

3. I am a shareholder in the law firm of Reed & Elmquist, P.C. ("R&E"). I and R&E have been requested by Diane G. Reed, Chapter 7 Trustee (the "Trustee") to represent her in this Chapter 7 case.

4. This affidavit was prepared and is being submitted as an Exhibit to Trustee's Application to Employ Reed & Elmquist, P.C. as Attorneys for the Chapter 7 Trustee (the "Application"). I have read the Application and R&E agrees to the terms of employment set forth therein.

5. The Trustee desires to employ R&E to provide general legal services as needed throughout the course of the Robert L. Smith and Ernest Smith case. The legal services that R&E will render to the Trustee may be summarized as follows:

(a) represent the Applicant in matters and transactions relating to the disposition of the assets of the bankruptcy estate;

(b) advise the Applicant with respect to legal matters arising from the Debtors' financial and business activities, and the disposition of the Debtors' assets;

(c) represent the Applicant in certain contested matters and adversary proceedings that may be filed in the Debtors' case;

(d) appear at proceedings in the case as deemed necessary or appropriate by the Applicant and R&E;

(e) pursue, at the request of Applicant, certain preference, avoidance, and other causes of action of the Debtors or the Debtors' estate; and

(f) perform such other legal services as may be necessary or appropriate and as requested by Applicant.

6. Subject to the Court's approval, R&E will charge the Trustee for its legal services on an hourly basis in accordance with its ordinary and customary hourly rates as in effect on the date services are rendered.

7. The current minimum hourly billing rates for the attorney and paralegal who will be providing substantially all of the services to the Trustee in this case are as follows:

David W. Elmquist, Shareholder:	\$350.00
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Linda Kaye Paquette, Paralegal:	\$140.00
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8. In addition to compensation for professional services rendered, R&E expects to be reimbursed for reasonable and necessary expenses incurred in connection with this Chapter 7 case, including, but not limited to, filing fees, deposition and other transcript costs, Lexis, PACER and other electronic research, travel expenses, long distance and fax charges, messenger services, postage and reproduction costs.

9. R&E understands that compensation for services rendered to the Trustee and reimbursement of expenses will be subject to final allowance by this Court pursuant to a fee application to be filed by R&E.

10. The following are R&E's connection with the Debtors, the Debtors' creditors and other parties in interest and their respective attorneys and accountants, the United States Trustee and any person employed at the Office of the United States Trustee:

(a) Diane Reed, an attorney and shareholder with R&E, is on the panel of Chapter 7 trustees for the Northern District of Texas, and serves as the trustee for the Debtors' bankruptcy estate.

11. If, and when, additional information with respect to any other relationships which may exist between R&E, its shareholders, principals and staff members and the Debtors or any other party in interest in this case arises, supplemental affidavits describing such information shall be filed with the Court.

12. R&E does not hold or represent any interest adverse to the Trustee or the Debtors' estate. R&E is a "disinterested person" as that term is defined in Section 101(14) of the Bankruptcy Code.

13. Neither R&E nor I have agreed to share compensation received in this case with any other person or entity not a member or regular associate of R&E.

**DATED:** May 9, 2008.

David W. Elmquist, SBT #06591300  
**REED & ELMQUIST, P.C.**  
604 Water Street  
Waxahachie, TX 75165  
(972) 938-7334  
(972) 923-0430 (fax)  
E-mail: [delmquist@bcylawyers.com](mailto:delmquist@bcylawyers.com)

THE STATE OF TEXAS §  
COUNTY OF ELLIS §

This instrument was **SUBSCRIBED AND SWORN TO** before me on May 19, 2008 by **DAVID W. ELMQUIST**, to certify which witness my hand and seal of office.

Karen Bifley  
Notary Public, State of Texas

